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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/393,473	09/10/99	COHEN	W A32636-07270

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EXAMINER

HSIEH, S

ART UNIT

PAPER NUMBER

2837

DATE MAILED:

09/07/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/393,473

Applicant(s)
Cohen

Examiner
Shih-yung Hsieh

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2837



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 10, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 14 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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1. In view of the appeal brief filed on 8/10/201, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (a) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (b) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. The abstract of the disclosure is objected to because the word "said" should not be used in the abstract. Correction is required. See MPEP § 608.01(b).

3. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kralik et al. in view of Isackson (5,659,143) and Zadek (2,364,581).


Kralik et al. disclose a maraca as stated in the office action of 7/19/2000. The difference between Kralik et al.'s maraca and claims 13 and 14 is that the claims recite using the maraca as an ornament for a key chain, said handle is fabricated of flexible material permitting resilient bending of said handle, said ornament having the overall shape of a miniature maraca having an overall

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length corresponding to the approximate width of a person's hand, and a bore sized for receiving a key ring or key chain member and is formed in the distal end of the handle of the maraca.

Isackson teaches using the maraca as an ornament for a key chain, and a bore is formed in the distal end of the handle of the maraca for receiving a key chain (col. 3, last line, and col. 4, lines 1-4, and "carried in a pocket or a purse" obviously means the size of said ornament having an overall length corresponding to the approximate width of a person's hand). Zadek teaches a rattle handle (18) made of flexible material (col. 2, line 10, and a flexible handle is obviously permitting resilient bending of said handle). It would have been obvious to a person having ordinary skill in the art to modify Kralik et al's ornament as taught by Isackson and Zadek to include the maraca as an ornament for a key chain with a handle fabricated of flexible material, and a bore is formed in the distal end of the handle of the maraca for the purpose of receiving a key chain.

4. Any inquiry concerning this communication should be directed to (David) S.Y. Hsieh at telephone number (703) 308-1031.


Shih-yung Hsieh
Primary Examiner
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